

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:13-cr-247

v.

HON. JANET T. NEFF

CHARLES MICHAEL CORNELIUS,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Charles Michael Cornelius has filed a motion for modification or reduction of sentence (Dkt 88) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The Court appointed counsel for Defendant and ordered a Report of Eligibility from the Probation office. The Probation Report determined that Defendant appeared ineligible for a sentence modification because the guideline range at sentencing was determined based on the defendant's status as a career offender (Dkt 92). Defendant filed an Objection to the report (Dkt 101), and the Government has filed a Response (Dkt 103).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

The Court concludes that defendant is ineligible for consideration of modification of sentence under Amendment 782, because the guideline range at sentence was determined based on the defendant's status as a career offender. *United States v. Riley*, 726 F.3d 756, 761 (6th Cir. 2013); *United States v Perdue*, 572 F.3d 288, 291 (6th Cir. 2009).

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 88) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: April 20, 2015

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge